

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Revision of the Commission's Rules)	CC Docket No. 94-102
To Ensure Compatibility with)	
Enhanced 911 Emergency)	
Calling Systems)	
)	
Amendment of Parts 2 and 25 to Implement the)	
Global Mobile Personal Communications by)	
Satellite (GMPCS) Memorandum of)	
Understanding and Arrangements; Petition of the)	IB Docket No. 99-67
National Telecommunications and Information)	
Administration to Amend Part 25 of the)	
Commission's Rules to Establish Emissions)	
Limits for Mobile and Portable Earth Stations)	
Operating in the 1610-1660.5 MHz Band)	

COMMENTS OF AT&T WIRELESS SERVICES, INC.

AT&T Wireless Services, Inc. ("AWS") hereby submits its comments in response to the *Further Notice* in the above-captioned proceeding.^{1/} Consistent with the Commission's policy of promoting "technological and competitive neutrality," providers of mobile satellite services ("MSS") that offer real-time, two-way, switched voice service that is interconnected with the public switched telephone network ("PSTN") should be required to comply with the Commission's basic and enhanced 911 rules. Likewise, the Commission should impose its basic

^{1/} *In the Matter of Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Amendment of Parts 2 and 25 to Implement the Global Mobile Personal Communications by Satellite (GMPCS) Memorandum of Understanding and Arrangements; Petition of the National Telecommunications and Information Administration to Amend Part 25 of the Commission's Rules to Establish Emissions Limits for Mobile and Portable Earth Stations Operating in the 1610-1660.5 MHz Band*, CC Docket No. 94-102, IB Docket No. 99-67, *Further Notice of Proposed Rulemaking*, FCC 02-326 (rel. Dec. 20, 2002) ("*Further Notice*").

and enhanced 911 rules on telematics providers who offer wireless services that allow subscribers to place calls directly via the public switched telephone network.

DISCUSSION

The Commission proposes to use certain general criteria in the future when analyzing whether to require a particular class of providers or devices to comply with its 911 and E911 rules, including: (1) whether the provider or device offers real-time, two-way voice service interconnected to the PSTN on either a stand-alone basis or packaged with other telecommunications services; (2) whether customers have a reasonable expectation of access to 911 and E911 services; (3) whether the service competes with traditional CMRS or wireline local exchange service; and (4) whether it is technically and operationally feasible for the service or device to support E911.^{2/} AWS agrees that applying these criteria will help ensure that the FCC's 911 and E911 rules are technologically and competitively neutral.

The Commission specifically seeks comment on whether, applying these criteria, it should require MSS operators to comply with its basic and enhanced 911 rules.^{3/} To the extent MSS operators offer real-time, two-way voice service interconnected to the PSTN, it is clear that they should be required to do so. First, from the consumer's point of view, such services have "many of the same characteristics as terrestrial-based mobile telephone services,"^{4/} and customers therefore reasonably expect to be able to access emergency services in the usual manner when they use such services.

^{2/} *Further Notice* at ¶¶ 12-13.

^{3/} *Id.* at ¶¶ 17, 28.

^{4/} *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, WT Docket No. 02-379, *Notice of Inquiry*, FCC 02-327 at ¶ 56 (rel. Dec. 13, 2002).

Second, MSS operators' satellite services are offered directly to end users in competition with traditional, terrestrial-based CMRS operators for the same base of customers, particularly in rural areas.^{5/} Moreover, certain MSS operators were recently granted ancillary authority^{6/} to provide services that clearly will compete with traditional CMRS offerings in other areas of the country, despite the Commission's findings to the contrary.^{7/} In seeking ancillary terrestrial authority, the MSS operators themselves argued that such functionality would permit them to compete more effectively with terrestrial providers.^{8/} Fairness and logic dictate that providers of such services not be permitted to evade the responsibilities placed on other providers of competing services.

With regard to the fourth criteria, technical and operational feasibility, the Commission repeatedly mentions the technical and administrative "difficulties" that MSS operators may face if they are required to implement basic and enhanced 911 service.^{9/} AWS does not believe that a showing that compliance would be "difficult" or "costly" justifies a continuing exemption for MSS operators. At the time the Commission developed the E911 rules for terrestrial wireless

^{5/} See *The Establishment of Policies and Service Rules for Mobile Satellite Service in the 2 GHz Band*, IB Docket No. 99-81, *Report and Order*, 15 FCC Rcd 16127, ¶1 (2000).

^{6/} *Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands; Review of Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands*, IB Docket No. 01-185, IB Docket No. 02-364, *Report and Order and Notice of Proposed Rulemaking*, FCC 03-15 (rel. Feb. 10, 2003).

^{7/} See Comments of AT&T Wireless Services, Inc., IB Docket No. 01-185, ET Docket No. 95-18, filed October 22, 2001 at 11-12 (arguing that the free grant of frequencies to MSS operators would disserve the public interest by distorting the competitive market for terrestrial wireless services).

^{8/} Reply Comments of Celsat America, Inc., IB Docket No 01-185, ET Docket No. 95-18, filed November 13, 2001 at 7-9; Reply Comments of Motient Services, Inc., TMI Communications and Company, Limited Partnership, and Mobile Satellite Ventures Subsidiary LLC, IB Docket No 01-185, ET Docket No. 95-18, filed November 13, 2001 at 10-11.

carriers, it recognized that they were aspirational and technically challenging.^{10/} No compliant technology existed at the time, and developing and implementing compliant solutions has not been easy for terrestrial wireless carriers or equipment manufacturers. The Commission nonetheless concluded that “[t]he substantial benefits of wireless E911 to the public interest and safety, however, make it crucial that those challenges be met and overcome without undue delay.”^{11/}

The technical challenges MSS operators face in complying with the Commission’s E911 requirements may be different from those faced by terrestrial wireless carriers and the Commission may need to modify its rules to address the “unique infrastructure considerations” of certain MSS systems.^{12/} There is no evidence in the record, however, of administrative problems or technical difficulties that are significantly distinct from those faced by nationwide CMRS providers with respect to 911. Therefore, MSS customers -- and callers using TTY devices and non-initialized MSS handsets -- should receive basic and enhanced 911 services that are as accurate and as prevalent as the basic and enhanced 911 services that customers of other services receive.^{13/}

^{9/} *Further Notice* at ¶¶ 22, 30.

^{10/} *See, e.g., Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, *Fourth Memorandum Opinion and Order*, 15 FCC Rcd 17442 at ¶ 7 (2000).

^{11/} *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, *Third Report and Order*, 14 FCC Rcd 17388 at ¶ 2 (1999).

^{12/} *Further Notice* at ¶ 20.

^{13/} AWS does not believe that the Commission should dictate the technology that MSS operators, or any other covered provider, must use to provide E-911 services. The Commission should address “what” must be provided and “where” it must be provided, but leave the “how” to the service providers themselves, who are in the best position to evaluate the costs and benefits

The same considerations of technological and competitive neutrality require the Commission to impose its basic and enhanced 911 rules on telematics providers who offer wireless services that allow subscribers to place calls directly via the PSTN. As the Commission explains, telematics customers who subscribe to such offerings can choose to dial 911 directly rather than going through a telematics call center.^{14/} Providers who choose to offer such “resold CMRS service capabilities”^{15/} should be subject to the same basic and E911 obligations as providers of competing services.^{16/}

CONCLUSION

For the reasons set forth above, the Commission should require providers of mobile satellite and telematics services that compete with traditional CMRS to comply with its basic and enhanced 911 rules.

of alternative technologies and select the most appropriate solution for their particular infrastructure.

^{14/} *Further Notice* at ¶ 63.

^{15/} *Id.* at ¶ 64.

^{16/} *See also* Reply Comments of AT&T Wireless Services, Inc., CC Docket No. 94-102 (filed Feb. 7, 2003) (urging FCC to reject OnStar Corporation’s request for a declaratory ruling that “embedded telematics devices operating on wireless carrier networks utilizing ‘handset’-based 911 Phase II solutions are not ‘handsets’” for purposes of the Commission’s E911 rules).

Respectfully submitted,

AT&T WIRELESS SERVICES, INC.

Howard J. Symons
Michelle M. Mundt
Bryan T. Bookhard
Mintz, Levin, Cohn, Ferris, Glovsky and
Popeo, P.C.
701 Pennsylvania Avenue, N.W.
Suite 900
Washington, D.C. 20004
(202) 434-7300

Of Counsel

February 19, 2003

/s/ Douglas I. Brandon
Douglas I. Brandon
Vice President - External Affairs
1150 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 223-9222

CERTIFICATE OF SERVICE

I, Bryan T. Bookhard, hereby certify that on this 19th day of February 2003, I caused copies of the foregoing "Comments of AT&T Wireless Services, Inc." to be filed in CC Docket No. 94-102 and IB Docket No. 99-67, and sent by electronic mail to the following:

Gregory W. Guice
Wireless Telecommunications Bureau
Federal Communications Commission
445 - 12th Street, S.W.
Washington, DC 20554

David Siehl
Wireless Telecommunications Bureau
Federal Communications Commission
445 - 12th Street, S.W.
Washington, DC 20554

Arthur Lechtman
International Bureau
Federal Communications Commission
445 - 12th Street, S.W.
Washington, DC 20554

/s/ Bryan T. Bookhard
Bryan T. Bookhard

WDC 326127v2